IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION No. 5053 of 2005

Between:

S. Jaihind S/o. Pochaiah, E. 211087, Driver
H.No. 1-16, Village, Gollapally,

Chevella Mandal, Ranga Reddy District.

..... PETITIONER

AND

1 The APSRTC, Rep. by its Vice Chairman and Managing Director,

Musheerabad, Hyderabad.
2 The Depot Manager, APSRTC, H.C.U. Depot,

Gatchibowli, Ranga Reddy District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction more particularly one in the nature of writ of mandamus calling for the records relating to the Proc.No. P2/1 (12)/2004-HCU, dt. 2-3-2005 issued by the 2nd respondent and declare the same as illegal, arbitrary and contrary to the rules and further direct the respondents to treat the entire period from 2-3-2005 till the date of re-instatement as continuity of service with full back wages and further direct the respondents to treat the initial appointment on 15-12-2001 as regular service and pass such other and further order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.P.RAGHAVENDRA REDDY

Counsel for the Respondent Nos.1 and 2: MR.V.T.M.PRASAD

The Court at the admission stage made the following:

ORDER:

Challenging the action of the 2nd respondent in deleting the name of the petitioner from the selection list through proceedings No.P2/1(12)/2004-HCU, dated 02.03.2005, the present writ petition is filed.

The petitioner worked as a casual Driver in the respondent Corporation. He was selected as a Driver in the year 2001 through the selection committee.

The petitioner contends that he fell sick and could not attend his duties from 01.07.2004 to 13.07.2004 and from 22.02.2005 to 01.03.2005, and he informed the same to the Depot authorities. Subsequently, when he reported to duty, he was informed that his name was deleted from the selection list without issuing charge sheet or show cause notice. The 2nd respondent passed an order on 02.03.2005 deleting the name of the petitioner from the approved list of selected candidates. Hence the present writ petition is filed.

It is not in dispute that the petitioner was selected on the basis of regular selection. His services were being utilized as casual Drivers as and when required. The petitioner contends that he did not receive any notice or charge memo and later came to know that his name was deleted from the list of selected candidates.

Under the similar circumstances, a Division Bench of this Court gave a judgment on 29.08.2003 in Writ Appeal No.1259 of 2003, upholding the order of the learned single Judge who held that it is not permissible for the Corporation to remove the name of the workman from the selected list, when the selection was made through a regularly constituted board. In the present case also, if the

Corporation comes to a conclusion that non-reporting to duty amounts to dereliction of duty, the Corporation is at liberty to initiate action against the petitioner and after a detailed inquiry, may pass appropriate orders according to Rules, but, without giving any opportunity, removing the name of the petitioner from the list of selected candidates is against the principles of natural justice. The action of the 2nd respondent in removing the name of the petitioner from the list of selected candidates is arbitrary. Therefore, such action is liable to be corrected by directing the respondents to restore the name of the petitioner to the selection list.

In the light of the above circumstances, the action of the respondents in deleting the name of the petitioner from the list of selected candidates is quashed. The respondents are directed to restore the name of the petitioner into the list of selected candidates and continue to engage him as he used to be engaged previously till an action, if any, taken by the respondents for the absence of the petitioner and the punishment, if any, going to be imposed.

With the above said observations, the Writ Petition is allowed. No order as to costs.

Dated: 15.03.2005

Dsr

ASSISTANT REGISTRAR

To:

1. The Vice Chairman & Managing Director,

APSRTC, Musheerabad, Hyderabad

2. The Depot Manager, APSRTC,

HCU Depot, Gatchibowli,

Ranga Reddy District

3. Two CD copies